

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of TIFFANY LAVAUGHN ROSE,  
RICKY LEE ROSE, JR., and THOMAS LEROY  
ROSE, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MADGIE LAVAUGHN ROSE,

Respondent-Appellant,

and

RICKY LEE ROSE, SR.,

Respondent.

UNPUBLISHED  
October 23, 2003

No. 243430  
Wayne Circuit Court  
Family Division  
LC No. 00-386805

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Before: Gage, P.J., and White and Cooper, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(g) and (j). We affirm.

The children at issue here, Tiffany (age 9), Ricky (age 5) and Thomas (age 3), were removed from the home after their father, Mr. Rose, sexually abused two of respondent-appellant's sons from a previous marriage while respondent-appellant was in the hospital giving birth to Thomas.<sup>1</sup> Tiffany later disclosed that Mr. Rose also sexually abused her and Ricky. Mr. Rose was convicted of two counts of first-degree criminal sexual conduct and was sentenced to ten to twenty years' imprisonment. Respondent-appellant pleaded no contest to the allegations in

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<sup>1</sup> These two other children are not at issue in this appeal. The trial court dismissed jurisdiction over these children after a custody order was entered granting custody to their father.

the petition. At the adjudication, evidence was admitted establishing that, before the incident leading to the children's removal, one of respondent-appellant's older sons had told her that Mr. Rose had twice tried to molest the boy and his brother, but respondent-appellant failed to take any action. Medical records of the boys were admitted into evidence and established that the boys had reported that Mr. Rose forcibly anally penetrated them and that the boys had anal injuries, including bleeding lacerations, which were consistent with forcible anal penetration. Respondent-appellant made statements at the initial dispositional hearing that her son later recanted his allegations and she allowed Mr. Rose to return home. The record demonstrates that Tiffany, Ricky, and Thomas remained in foster care for over two years after they were removed from respondent-appellant's home.

The trial court did not clearly err in finding that §§ 19b(3)(g) and (j) were established by clear and convincing evidence. MCR 5.974(I);<sup>2</sup> *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). At the time of the termination hearing, respondent-appellant had failed to comply with her treatment plan and did not have a home to which the children could be returned. She had stopped attending therapy and never adequately addressed her failure to protect the children from sexual abuse. In addition, the children all had significant special needs to which respondent-appellant could not attend. For example, while in foster care, Tiffany demonstrated several problems including self-mutilation, urinating on toys, lying, and destroying possessions. She also suffered from enuresis and had to wear diapers to assist with the problem. It was further established that a maternal uncle had sexually abused Tiffany and that Tiffany had told respondent-appellant about the abuse, but respondent-appellant failed to report it or take any action. Ricky likewise engaged in self-mutilation, including choking himself with his hands and seat belt. Evidence indicates that both Ricky and Tiffany were infected with an intestinal parasite when they entered foster care, and exhibited severe emotional instability, which they continue to exhibit. Thomas was born with a congenital kidney disease known as hydronephrosis and was also diagnosed with bilateral reflux disease. Doctors indicated that he requires constant attention and might need surgery (a kidney transplant) in the future to correct his condition. The record clearly demonstrates that respondent-appellant lacked insight into the extreme behavioral and emotional problems exhibited by Tiffany and Ricky and failed to consistently attend Thomas' medical appointments.<sup>3</sup>

Further, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the best interests of the children. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Although the evidence established that respondent-appellant claimed to love her children, she never progressed beyond supervised parenting time with the children because of her inability to appropriately parent the children and their extreme negative reactions to her during parenting time. We find no merit to respondent-appellant's

<sup>2</sup> Effective May 1, 2003, the court rules governing proceedings regarding juveniles were amended and moved to the new MCR subchapter 3.900. In this opinion, we refer to the rules in effect at the time of the order terminating parental rights. See *In re JK*, 468 Mich 202, 209 n 17; 661 NW2d 216 (2003).

<sup>3</sup> We note that at one point in the proceedings, the trial court actually commented that the children were "quite possibly the most disturbed children I have seen on my docket."

contention that had the trial court considered the best interest factors defined in the Child Custody Act, MCL 722.23, it would not have terminated her parental rights.

Affirmed.

/s/ Hilda R. Gage  
/s/ Helene N. White  
/s/ Jessica R. Cooper